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U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

FILE: [REDACTED] Office: Miami (Tampa)

Date: **DEC 10 2002**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

IN BEHALF OF APPLICANT: Self-represented

**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Miami, Florida, who certified his decision to the Associate Commissioner, Examinations, for review. The district director's decision will be affirmed.

The applicant is a native and citizen of Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act of November 2, 1966. This Act provides for the adjustment of status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959, and has been physically present in the United States for at least one year, to that of an alien lawfully admitted for permanent residence if the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

The district director found the applicant inadmissible to the United States pursuant to section 212(a)(2)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(2)(C). The district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

In response to the notice of certification, the applicant expresses remorse for his past behavior and states that he has completed his punishment in its entirety. He requests reconsideration because, due to health complications, he applied for Social Security benefits but he was denied due to his immigration status.

Section 212(a)(2) of the Act, 8 U.S.C. 1182(a)(2), provides that aliens inadmissible and ineligible to receive visas and ineligible to be admitted to the United States include:

(A)(i) Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of --

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802).

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(C) Any alien who the consular officer or immigration officer knows or has reason to believe is or has been an illicit trafficker in any such controlled substance or is

or has been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance, is inadmissible.

Section 212(a)(2)(D) of the Act provides for the inadmissibility of any alien who --

(i) is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within 10 years of the date of application for visa, admission, or adjustment of status,

(ii) directly or indirectly procures or attempts to procure, or (within 10 years of the date of application for a visa, admission, or adjustment of status) procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution, or receives or (within such 10-year period) received, in whole or in part, the proceeds of prostitution ...

The record reflects the following:

1. On January 21, 1985, in the Circuit Court of the Thirteenth Judicial Circuit, Hillsborough County, Florida, Case No. [REDACTED] the applicant entered a plea of guilty to possession of cocaine with intent to deliver. He was found guilty of the crime and placed on Community Control for a period of two years followed by one year of probation.

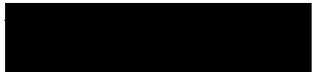
2. On July 16, 1984, in the Circuit Court of the Thirteenth Judicial Circuit, Hillsborough County, Florida, Case No. [REDACTED] the applicant was found guilty of the offense of solicit for prostitution. Imposition of sentence was withheld and he was placed on probation for a period of six months, and assessed \$300 in court costs.

The Federal Bureau of Investigation report, contained in the record of proceeding, reflects the following arrests. The arrest reports for these charges and the final court dispositions, however, are not contained in the record:

3. Arrested on November 10, 1981, in New Orleans, and charged with (1) theft in the amount of \$10, and (2) possession of stolen property valued at \$10.

4. Arrested on May 29, 1984, in Tampa, Florida, and charged with lewd and lascivious act in the presence of a child.

Theft, possession of stolen property, and lewd and lascivious act in the presence of a child (paragraphs 3 and 4 above) are crimes involving moral turpitude, and conviction of these crimes may



render the applicant inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Act. As there are no conviction documents, a determination cannot be made at this time.

The applicant is, however, inadmissible to the United States pursuant to sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Act based on his conviction of possession of cocaine with intent to deliver (paragraph 1 above). He is also inadmissible pursuant to section 212(a)(2)(D)(ii) of the Act based on his conviction of soliciting for prostitution (paragraph 2 above). There is no waiver available to an alien found inadmissible under sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Act except for a single offense of simple possession of thirty grams or less of marijuana. The applicant does not qualify under this exception.

The applicant is ineligible for adjustment of status to permanent residence pursuant to section 1 of the Act of November 2, 1966. The decision of the district director to deny the application will be affirmed.

**ORDER:** The district director's decision is affirmed.

APPROVED  
MAY 1 1966